vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1089 OF 2005
IN
SUMMARY SUIT NO.3291 OF 2003

Atmaram Leasing Co. Pvt. Ltd. ... Plaintiffs

V/s.

Prabhudas Hirji & Co. & Ors. ... Defendants

Ms.Laxmi i/b Rekha Shukla for the Plaintiffs
Mr.A.M. Saraogi for the Defendants

CORAM : SMT. NISHITA MHATRE, J.

DATED : AUGUST 8, 2006

P.C.:

. The Defendants have taken out the present Motion for setting aside the order dated 7.2.2005 and restoring the Summons for Judgment taken out by the Plaintiffs to file. The suit is filed for an amount of Rs.2,31,500/-, Rs.2,00,000/- being the principal amount. The Defendants have contended that their earlier advocates who were engaged by them, could not attend the matter and therefore, the present advocates were appointed. A decree was obtained against the defendants and insolvency proceedings are also pending.

2. In my view, the defendants have not made out a case for setting aside the order passed on 7.2.2005 ex-parte. However, with a view to ensure that any

injustice is done on account of the change of advocates, the ex-parte decree is set aside on condition that the defendants deposit in Court the principal amount claimed in the suit within four weeks from today. In the event the amount is not deposited within the stipulated time, the decree may be executed.

3. Motion is disposed off accordingly.